Senate

General Assembly **File No. 576**

February Session, 2012 Substitute Senate Bill No. 355

Senate, April 23, 2012

The Committee on Finance, Revenue and Bonding reported through SEN. DAILY of the 33rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE REVENUES FROM THE PETROLEUM PRODUCTS GROSS EARNINGS TAX AND PROVIDING AN ADDITIONAL EXEMPTION FROM SAID TAX.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2012*) For the fiscal year ending June 30, 2013, and annually thereafter, the Comptroller shall make available for the purposes of the underground storage tank petroleum clean-up program established under section 22a-449c of the general statutes, the amount collected in the immediately preceding fiscal year from the petroleum products gross earnings tax imposed pursuant to section 12-587 of the general statutes, as amended by this act, that is in excess of the amount for said tax contained in the revenue schedule supporting the budget for such preceding fiscal year.

Sec. 2. (NEW) (*Effective July 1, 2012*) There is established an account to be known as the "rail cars and rail yard account" which shall be a separate, nonlapsing account within the Special Transportation Fund.

The following funds shall be deposited annually in the account: (1) Revenues collected for the petroleum products gross earnings tax imposed pursuant to section 12-587 of the general statutes, as amended by this act, in an amount equal to the annual amount budgeted for purchase of self-propelled rail cars and for the design and construction of rail maintenance facilities to support such cars, and (2) any other funds required by law to be deposited in the account. Moneys in the account shall be expended by the Commissioner of Transportation for the purposes of the purchase of self-propelled rail cars and for the design and construction of rail maintenance facilities to support such cars.

Sec. 3. Subsection (b) of section 12-587 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2012*):

(b) (1) Except as otherwise provided in subdivision (2) of this subsection, any company which is engaged in the refining or distribution, or both, of petroleum products and which distributes such products in this state shall pay a quarterly tax on its gross earnings derived from the first sale of petroleum products within this state. Each company shall on or before the last day of the month next succeeding each quarterly period render to the commissioner a return on forms prescribed or furnished by the commissioner and signed by the person performing the duties of treasurer or an authorized agent or officer, including the amount of gross earnings derived from the first sale of petroleum products within this state for the quarterly period and such other facts as the commissioner may require for the purpose of making any computation required by this chapter. Except as otherwise provided in subdivision (3) of this subsection, the rate of tax shall be (A) five per cent with respect to calendar quarters prior to July 1, 2005; (B) five and eight-tenths per cent with respect to calendar quarters commencing on or after July 1, 2005, and prior to July 1, 2006; (C) six and three-tenths per cent with respect to calendar quarters commencing on or after July 1, 2006, and prior to July 1, 2007; (D) seven per cent with respect to calendar quarters commencing on or after July 1, 2007, and prior to July 1, 2013; and (E) eight and one-tenth per cent with respect to calendar quarters commencing on or after July 1, 2013.

(2) Gross earnings derived from the first sale of the following petroleum products within this state shall be exempt from tax: (A) Any petroleum products sold for exportation from this state for sale or use outside this state; (B) the product designated by the American Society for Testing and Materials as "Specification for Heating Oil D396-69", commonly known as number 2 heating oil, to be used exclusively for heating purposes or to be used in a commercial fishing vessel, which vessel qualifies for an exemption pursuant to section 12-412; (C) kerosene, commonly known as number 1 oil, to be used exclusively for heating purposes, provided delivery is of both number 1 and number 2 oil, and via a truck with a metered delivery ticket to a residential dwelling or to a centrally metered system serving a group of residential dwellings; (D) the product identified as propane gas, to be used exclusively for heating purposes; (E) bunker fuel oil, intermediate fuel, marine diesel oil and marine gas oil to be used in any vessel having a displacement exceeding four thousand dead weight tons; (F) for any first sale occurring prior to July 1, 2008, propane gas to be used as a fuel for a motor vehicle; (G) for any first sale occurring on or after July 1, 2002, grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition; (H) for any first sale occurring on or after July 1, 2002, number 2 heating oil to be used exclusively in a vessel primarily engaged in interstate commerce, which vessel qualifies for an exemption under section 12-412; (I) for any first sale occurring on or after July 1, 2000, paraffin or microcrystalline waxes; (J) for any first sale occurring prior to July 1, 2008, petroleum products to be used as a fuel for a fuel cell, as defined

in subdivision (113) of section 12-412; (K) a commercial heating oil blend containing not less than ten per cent of alternative fuels derived from agricultural produce, food waste, waste vegetable oil or municipal solid waste, including, but not limited to, biodiesel or low sulfur dyed diesel fuel; [or] (L) for any first sale occurring on or after July 1, 2007, diesel fuel other than diesel fuel to be used in an electric generating facility to generate electricity; or (M) for any first sale occurring on or after July 1, 2012, cosmetic grade mineral oil.

(3) The rate of tax on gross earnings derived from the first sale of grade number 6 fuel oil, as defined in regulations adopted pursuant to section 16a-22c, to be used exclusively by a company which, in accordance with census data contained in the Standard Industrial Classification Manual, United States Office of Management and Budget, 1987 edition, is included in code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in the North American Industrial Classification System United States Manual, United States Office of Management and Budget, 1997 edition, or number 2 heating oil used exclusively in a vessel primarily engaged in interstate commerce, which vessel qualifies for an exemption under section 12-412 shall be: (A) Four per cent with respect to calendar quarters commencing on or after July 1, 1998, and prior to July 1, 1999; (B) three per cent with respect to calendar quarters commencing on or after July 1, 1999, and prior to July 1, 2000; (C) two per cent with respect to calendar quarters commencing on or after July 1, 2000, and prior to July 1, 2001; and (D) one per cent with respect to calendar quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2012*	New section
Sec. 2	*July 1, 2012*	New section
Sec. 3	*July 1, 2012*	12-587(b)

FIN *Joint Favorable Subst.*

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 13 $	FY 14 $
Department of Revenue Services	GF - Revenue Loss	Less than 300,000	Less than 300,000
Department of Revenue Services	GF - Potential Revenue Loss	See Below	See Below
Department of Energy and Environmental Protection	Underground Storage Tank (Clean Up) Account - Potential Revenue Gain	See Below	See Below
Department of Transportation	TF - Revenue Loss	11.2 million	43.0 million
Department of Transportation	TF Rail Cars/Yard Account - Revenue Gain	11.2 million	43.0 million

Note: GF=General Fund; TF=Transportation Fund

Municipal Impact: None

Explanation

The bill diverts from the General Fund to the underground storage tank clean-up program any revenue from the petroleum products gross earnings tax (PGET) that is in excess of the budgeted amount. Using FY 11 budgeted estimates and actuals as an illustrative example, and accounting for the recently-passed $3.00 cap, the amount of revenue in excess of FY 11 budgeted was $59.1 million. However, to the extent that actual revenue is less than or equal to anticipated, there would be no revenue loss.

The bill restricts a portion of the Special Transportation Fund (STF) revenue from the petroleum products gross earnings tax by dedicating it to the funding of debt service costs for rail cars and the New Haven rail yard. By law, the STF is to receive the following amounts from the petroleum gross earnings tax: $199.4 million in FY 13; $ 222.7 million in FY 14; $226.8 million in FY 15; and $231.4 million in FY 16. By restricting funds to a dedicated purpose, the bill makes these funds unavailable for other STF uses.

The table below shows the projected debt service cost to the Special Transportation Fund (STF) between FY 13 and FY 16 for Special Tax Obligation (STO) bonds used to support: (1) construction costs at the New Haven Rail Yard and (2) the purchase of M-8 rail cars for the New Haven Line. The STF debt service cost between FY 17 and FY 33 are in the range of $100 million per year.

FY 13 – FY 16 STF Debt Service Cost for New Haven Rail Yard Improvements and M-8 Rail Cars	
Fiscal Year	Debt Service Cost ($-millions)
FY 13	11.2
FY 14	43.0
FY 15	70.8
FY 16	91.8

The STF debt service estimates are based on the following assumptions:

- Completion of the rail yard construction in June 2017 and receipt of the remaining M-8 rail cars by June 2015;
- STO bonds are issued once per fiscal year, on or before December 31, at a 5.5% interest rate for a term of 20 years; and
- In the first year of issuance, the STF makes one interest-only debt service payment on the bonds. In subsequent years, the STF makes one interest-only payment and one payment of both principal and interest.

The bill also exempts cosmetic-grade mineral oil from the PGET beginning in FY 13. This results in a revenue loss of less than $300,000 annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

Sources: Department of Revenue Services Annual Report

OLR Bill Analysis

sSB 355

AN ACT CONCERNING THE REVENUES FROM THE PETROLEUM PRODUCTS GROSS EARNINGS TAX AND PROVIDING AN ADDITIONAL EXEMPTION FROM SAID TAX.

SUMMARY:

This bill allocates portions of the state's annual revenue from the petroleum products gross earnings tax to:

1. provide funds for the Underground Storage Tank Petroleum Clean-Up program and

2. cover the annual budgeted cost of buying self-propelled rail cars and designing and building rail maintenance facilities for the cars.

Starting with sales occurring on or after July 1, 2012, the bill also exempts from the tax any first sale in the state of cosmetic-grade mineral oil. Mineral oil is a common ingredient in baby lotion and cold cream, among other things. It is a byproduct of petroleum distillation and chemically similar to paraffin oil. Paraffin is already exempt.

EFFECTIVE DATE: July 1, 2012

UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM

The bill requires the comptroller, in each fiscal year starting with FY 13, to allocate to the Underground Storage Tank Petroleum Clean-Up program any petroleum products gross earnings tax revenue the state collected in the prior fiscal year that exceeds the projected revenue from the tax included in the legislatively adopted revenue schedule supporting the state budget for that year.

The Underground Storage Tank Petroleum Clean-Up Program reimburses responsible parties for environmental remediation costs they incur because of leaking commercial tanks, primarily those containing motor fuel, such as diesel fuel and gasoline.

RAIL CARS AND RAIL YARD ACCOUNT

The bill establishes a separate nonlapsing rail cars and rail yard account in the Special Transportation Fund. It allocates to the new account:

1. enough annual revenue from the petroleum products gross earnings tax to cover annual amounts budgeted for (a) buying M8 self-propelled rail cars for Metro North and (b) designing and building rail yard facilities for maintaining the cars and

2. any other funds that must, by law, be deposited in it.

It requires the transportation commissioner to spend money in the account for the M8 cars and rail yard facilities.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 50 Nay 0 (04/03/2012)